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EXCEPTION

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RIZONA CORPORATION COMMISSION

AZ CORP COMMISSION

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Commissioner
WILLIAM A. MUNDELL
Commissioner

ARIZONA CORPORATION COMMISSION

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DOCUMENT CONTROL

IN THE MATTER OF MATTER OF THE
APPLICATION OF ARIZONA PUBLIC
SERVICE COMPANY FOR APPROVAL OF ITS
PLAN FOR STRANDED COST RECOVERY

DOCKET NO. E-01345A-98-0473

IN THE MATTER OF FILING OF ARIZONA
PUBLIC SERVICE COMPANY OF
UNBUNDLED TARIFFS PURSUANT TO A.A.C.
R14-2-1601 ET. SEQ.

DOCKET NO. E-010345A-97-0773

IN THE MATTER OF COMPETITION IN THE
PROVISION OF ELECTRIC SERVICES
THROUGHOUT THE STATE OF ARIZONA

DOCKET NO. RE-00000C-94-0165 ✓

STAFF EXCEPTIONS

Staff has received and reviewed the Hearing Officer's Recommended Opinion and Order ("Recommended Order") issued in this matter on August 26, 1999. The Recommended Order proposes that the Commission approve the Settlement following certain modifications. The Recommended Order reveals thoughtful consideration of the issues presented by this Settlement, and Staff believes that the results proposed are generally appropriate.

In addition, Staff recognizes the delicate balance to be struck in deciding to require changes to the Settlement as a condition of approval. As a result, our recommendations were tempered in such a manner as to only propose changes or conditions in those instances wherein Staff believed the public interest truly required amendment to the Settlement. Likewise, we do not propose changes to the Recommended Order lightly.

Staff believes the Recommended Order resolves the vast majority of issues properly. However, there are a few important issues, which Staff believes should be resolved differently than the Recommended Order. Staff, therefore, submits these Exceptions for the Commission's

1 consideration. The specific issues which we believe should be altered from the treatment proposed
2 in the Recommended Order are as follows: (1) the Shopping Credits should be increased; (2) the
3 Commission should provide more explicit directions relating to the competitive acquisition of
4 standard offer power than is provided; (3) rates should be unbundled further than currently provided
5 by the proposed informational bill; and, (4) the Commission should decline to approve all of the
6 requested waivers of statutes and rules at this time.

7 **I. Shopping credits should be increased**

8 The draft decision approves the Settlement proposed "shopping credits". This position is
9 supported by reference to a showing by APS that customers from 40kW to 200kW had an average
10 margin (difference between shopping credit and estimate of market price) of 8 mills. This
11 comparison is inadequate to support the level of shopping credit for two reasons; first, the calculated
12 shopping credit was not indicative of the average credit of either the rate class or a full subset of the
13 rate class, but represented only a selected group of customers. Since the amount of the shopping
14 credit per customer varies with the customer's monthly load factor, energy consumption, and
15 seasonal use pattern, results for any particular group cannot be taken to be reflective of the whole.
16 Second, as testified to by Mr. Higgins, the Company compared this shopping credit to a market
17 price that was estimated for a different group of customers. Reflecting the low load factor of this
18 group would show a higher market price.

19 The point is that the Recommended Order accepted as a reasonable shopping credit, one
20 which would not be obtainable by all customers within the class to which it applied. Staff's
21 testimony demonstrated that the proposed shopping credits were inadequate when considered in
22 reference to each entire class of customers. The fact that one particular customer may experience
23 an adequate shopping credit does not justify the Commission's approval when the referenced
24 customer's usage characteristics are different than those of the class as a whole.

25 The draft decision also misconstrued Staff's position when it stated "we do not find customer
26 rates should be increased simply to have higher "shopping credits"." Staff does not propose to
27 increase customer rates to have higher shopping credits. Staff proposed that slightly higher shopping
28 credits should be balanced by a lower CTC, recovered over a slightly longer transition period. The

1 only impact of this small rate shift is that if the Commission chooses to guarantee APS recovery of
2 the \$350 million, the CTC might have to be continued somewhat beyond the currently anticipated
3 end date. It also might not require an extension of the CTC, as sufficient load growth could provide
4 the desired CTC recovery in five years. This small modification makes it more likely that a
5 competitive market will develop, does not increase rate levels, and still allows the Company to
6 collect all stranded costs.

7 **II. Acquisition of Standard Offer power**

8 The recommended Order would modify the Settlement to make it clear that the APS
9 generation affiliate cannot automatically supply standard offer power. It also puts the Company on
10 notice that the Commission will carefully scrutinize the capital structure of APS after generation is
11 spun off. Staff recommends that the conditions related to the generation affiliate should
12 specifically prohibit any single entity from winning the right to serve all of APS' standard offer load.

13 This provision will encourage the development of alternative supply in Arizona.

14 **III. Unbundled Rates**

15 The recommended decision would allow APS to offer separate Standard Offer and Direct
16 Access rates, which are not fully unbundled and do not explicitly show the shopping credit. Staff
17 continues to urge that the shopping credit be shown as a rate, to ease customers' decision making
18 process. The offered Informational Standard Offer Bill will always be specific to each customer and
19 each customer month and may not be adequate to guide customers in making decisions about future
20 periods.

21 The decision repeats APS' assertion that unbundling of Standard Offer rates is difficult or
22 impossible "on a strict cost-of-service" basis because existing rates do not equal the existing cost of
23 service. Staff's Informational Standard Offer Bill did unbundle the filed rates. This process made
24 it evident that the shopping credit does impact a number of rate elements, but this detailed
25 information would allow customers of different load factors and different usage patterns to compute
26 their shopping credit and potential savings.

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1 **IV. Requested Waivers**

2 Under Section 4.3 of the Settlement, Commission approval would automatically act to
3 exempt APS and its affiliates from the application of a wide range of provisions under A.R.S. Title
4 40, including A.R.S. §§ 40-203, 204(A), 204(B), 248, 250, 251, 285, 301, 302, 303, 321, 322, 331,
5 332, 334, 365, 366, 367 and 401. In addition, under Section 4.5 of the Settlement, Commission
6 approval will constitute certain waivers to APS and its affiliates of a variety of the provisions of the
7 Commission's affiliate interest rules (A.A.C. R14-2-801, *et seq.*), and the rescission of all or portions
8 of certain prior Commission decisions.

9 Staff recommended that the Commission reserve its approval of the requested statute waivers
10 until such time as the applicability of the statute to competitive services can be evaluated on an
11 industry-wide basis, rather than providing a blanket exemption for APS and its affiliates. With
12 regard to the requested waivers of affiliated interest rules, Staff noted the importance of not waiving
13 the applicability of A.A.C. R14-2-804(A), in order to preserve the regulatory authority needed by
14 the Commission to justify approving Exempt Wholesale Generator ("EWG") status for APS'
15 generation affiliate.

16 The Recommended Order does not specifically discuss the topic of waivers, which has the
17 effect of approving waivers and exemptions as provided by the Settlement. Staff continues to
18 believe that it is important for the Commission to consider the waivers and exemptions in detail, and
19 in an industry-wide proceeding, rather than approving them in this proceeding. A review of the
20 referenced statutes reveals that approval of the waivers as requested would amount to waiving a
21 broad range of regulatory controls. It is Staff's view that such far-reaching action should only be
22 undertaken following serious consideration and an examination of its effect on the entirety of the
23 restructured industry. Staff sees no detriment to any party from adopting our recommendation, while
24 approval of the waivers in this decision may be irreversible. Additionally, we continue to believe
25 that the Commission should refuse to waive the applicability of A.A.C. R14-2-804(A).

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1 Staff requests that the Commission amend the recommended opinion and order issued by the
2 hearing officer to reflect our recommendations. Attached to these exceptions is Staff's proposed
3 amendment, to conform with our exceptions.

4 RESPECTFULLY SUBMITTED this 7th day of September, 1999.

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1 Original and ten copies of the
2 foregoing filed this 7th day
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STAFF'S PROPOSED AMENDMENT TO CONFORM WITH EXCEPTIONS

Page 6, Line 24

Delete "an average"

Insert "for one representative, customer a possible"

Page 7, Delete Lines 1 through 3

Insert "Shopping credits should be established at a level that will reflect the best available estimates of market price for generation. Market generation credits should be increased to the levels represented in the direct testimony of Staff witness Lee Smith. Consistent with Staff's recommendations, the increase in shopping credits should be offset by a decrease in the Competitive Transition Charge ("CTC") and lengthen the recovery period, if necessary, to ensure recovery of stranded costs as approved herein."

Page 9, line 22 ½, insert after "Agreement.",

"In addition, language should be added to the Agreement providing that no single entity may win the right to serve all of APS' standard offer load. Such a provision will encourage the development of alternative supply in Arizona and help ensure against any unfair advantage in favor of the competitive affiliate."

Page 11, line 13, insert after "breakdown.",

"In addition, we agree with Staff that the Informational Standard Offer Bill should be fully unbundled, including showing the shopping credit as a rate. APS should further revise its Bill to provide this information, consistent with the Informational Standard Offer Bill submitted by Staff."

Page 11, Line 28, insert new section,

Requested Waivers

Section 4.3 of the Agreement would automatically act to exempt APS and its affiliates from the application of a wide range of provisions under A.R.S. Title 40. In addition, under Section 4.5 of the Agreement, Commission approval without modification will act to grant certain waivers to APS and its affiliates of a variety of the provisions of the Commission's affiliate interest rules (A.A.C. R14-2-801, *et seq.*), and the rescission of all or portions of certain prior Commission decisions.

1 Staff recommended that the Commission reserve its approval of the requested statute waivers
2 until such time as their applicability can be evaluated on an industry-wide basis, rather than
3 providing a blanket exemption for APS and its affiliates. Additionally, Staff recommended that the
4 Commission not waive the applicability of A.A.C. R14-2-804(A), in order to preserve the regulatory
5 authority needed by the Commission to justify approving Exempt Wholesale Generator ("EWG")
6 status for APS' generation affiliate.

7 We concur with Staff. Accordingly, the requested statutory waivers shall not be granted by
8 this decision. Those waivers will be considered in an industry-wide proceeding to be scheduled at
9 the Commission's earliest convenience. The requested waivers of affiliate interest rules and
10 rescission of prior Commission decisions shall be granted, except that the provisions of A.A.C. R14-
11 2-804(A) shall not be waived.

12 Replace Conclusion of Law Number 7, with the following,

13 7. The requested statutory waivers should not be granted at this time. A proceeding
14 should be commenced to consider statutory waivers on an industry-wide basis. The other waivers
15 requested by APS in the Settlement should be granted as modified herein, except that the provisions
16 of A.A.C. R14-2-804(A) shall not be waived.